FILE COPY

No. 568

In the Supreme Court of the United States

OCTOBER TERM, 1931

UNITED STATES OF AMERICA, APPELLANT

v.

SWIFT & COMPANY ET AL.

ON APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA

STATEMENT OF JURISDICTION

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STATEMENT OF JURISDICTION

In compliance with Rule 12 of this Court, the United States of America, appellant, submits herewith its statement showing the basis of the jurisdiction of this Court in the above-entitled cause:

A

STATUTES

The statutory jurisdiction of this Court to review by direct appeal the decree here complained of is conferred by the Act of February 11, 1903, c. 544, Sec. 2, 32 Stat. 823, known as the Expediting Act (U. S. C., Title 15, Sec. 29), and by Section 238 of

the Judicial Code, as amended by the Act of February 13, 1925.

B

DATES OF DECREE AND APPLICATION FOR APPEAL

The final decree sought to be reviewed was entered on January 31, 1931. (Cumulative [1] p. 1650.) The petition for appeal was presented and filed and the order allowing the appeal was made and entered on March 30, 1931. (Petition for appeal, cumulative p. 1737; order allowing appeal, cumulative p. 1738.) The citation and acknowledgment of service thereof were filed on March 30, 1931. (Cumulative pp. 1739, 1740.) Extension of time was granted for docketing the case with the clerk of this Court until December 24, 1931. (Cumulative p. 1819.) The case was docketed December 10, 1931.

C

NATURE OF THE CASE

This cause was instituted by two petitions brought by the appellees herein to modify the provisions of a consent decree entered on February 27, 1920, in which the appellees and others were named as defendants. The consent decree was entered in a proceeding brought by the United

[1] The Record has not yet been printed. The cumulative page numbers refer to the pages of the Record (partly printed and partly typewritten), transmitted by the clerk of the court below, counting consecutively from p. 1 of the Petition.

States under the provisions of Section 4 of the Act of Congress of July 2, 1890, c. 647, 26 Stat. 209, commonly known as the Sherman Antitrust Act, and Section 15 of the Act of October 15, 1914, c. 323, 38 Stat. 730, 736, commonly known as the Clayton Act, to prevent and restrain the defendants named in the consent decree from further monopolizing or attempting to monopolize interstate trade and commerce in food products (Petition, cumulative pp. 1–17). See *Swift & Company* v. *United States,* 276 U. S. 311.

In an opinion filed January 5, 1931, unreported, the Supreme Court of the District of Columbia held that changes in conditions had been proved warranting the modification of the consent decree in specified respects. (Opinion, cumulative pp. 1629–1652.)

The final decree entered on January 31, 1931, directed the modification of the consent decree so as to release the defendants named therein from certain of its prohibitions.

D

CASES SUSTAINING JURISDICTION

The following decisions are believed to sustain the jurisdiction of this Court:

Swift & Company v. *United States,* 276 U. S. 311.

United States v. *California Cooperative Canneries,* 279 U. S. 553.

United States v. *International Harvester Co.*, 274 U. S. 693.

Paramount Famous Lasky Corp. v. *United States*, 282 U. S. 30.

United States v. *First National Pictures, Inc.*, 282 U. S. 44.

Respectfully submitted.

THOMAS D. THACHER,
Solicitor General.

JOHN LORD O'BRIAN,
The Assistant to the Attorney General.

HAMMOND E. CHAFFETZ,
Special Assistant to the Attorney General.

DECEMBER, 1931.

U. S. GOVERNMENT PRINTING OFFICE: 1931

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CHARLES ELMORE CROPLEY
CLERK

SUPREME COURT OF THE UNITED STATES.

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UNITED STATES OF AMERICA

v.

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No. 569.

AMERICAN WHOLESALE GROCERS ASSOCIATION

v.

SWIFT & COMPANY ET AL.

No. 570.

NATIONAL WHOLESALE GROCERS ASSOCIATION

v.

SWIFT & COMPANY ET AL.

RULE TWELVE STATEMENT.

By EDGAR WATKINS,
Citizens & Southern National Bank Building, Atlanta, Georgia, Attorney for American Wholesale Grocers Association et al.

MAC ASBILL,
EDGAR WATKINS, JR.,
Of Counsel.

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No. 570.

NATIONAL WHOLESALE GROCERS ASSOCIATION

v.

SWIFT & COMPANY ET AL.

RULE TWELVE STATEMENT.

Come now American Wholesale Grocers Association, Henry G. Sears & Company, of Massachusetts; John

Hoffman & Sons, of Wisconsin; Mason, Ehrman & Company, of Oregon; J. H. Radford Grocery Company, of Texas; Southern Distributing Company, of Virginia; Hall Grocery Company, of Arkansas; Albert Mackie & Co., Ltd., of Louisiana; Hicks Company, of Louisiana; Rapides Grocery Company, Inc., of Louisiana, and Oliver Finnie Grocery Company, of Tennessee, and, complying with amended Rule Twelve of this Court, respectfully show:

A. The general jurisdiction of this appeal has been sustained on former appeals herein and is authorized by Expediting Act of February 11, 1903, c. 544, sec. 2, 32 Stat. 823. See *Swift & Company* v. *United States*, 276 U. S. 311; *United States* v. *California Cooperative Canneries*, 279 U. S. 552.

B. The date of the decree sought to be reviewed herein is January 31, 1931 (R. 1650), and this decree was amended February 26, 1931 (R. 1653). Appellants' petition for appeal was presented and the appeal granted on the 30th day of March, 1931, and there was filed therewith an assignment of errors, a citation of error was issued, and a bond was given (R. 1748, 1749, 1730, 1750).

C. The nature of the case grew out of a consent decree rendered February 27, 1920 (R. 118). A predecessor of this Association filed an intervention in the proceedings in which said consent decree was entered September 11, 1921, and this petition was granted and the intervention filed (R. 134, 145, 146). An amend-

ment to the intervention was filed October 13, 1921 (R. 141). A motion to strike this intervention was made, a hearing had thereon, and on November 1, 1921, the motion was overruled in a memoranda opinion, in which opinion it was stated that these interveners-appellants had a special interest in the matter (R. 145, 146). The suit in which the original consent decree was entered was a suit brought under the Anti-Trust laws of the United States against the appellees here and the intervention of these appellants was on behalf of the decree and in support thereof. On the 2nd day of April, 1930, appellees, the Swift & Company and Armour & Company defendants, filed their amended petitions to modify or annul the original consent decree (R. 164, 235). To this petition these appellees filed first motions to strike the petitions (R. 303, 306), which motions were denied (R. 311), and thereafter these appellees filed answers to said petitions for modification (R. 318, 334).

The intervention herein was filed under the authority of Equity Rule 37 of this Court and of Equity Rule 13 of the Supreme Court of the District of Columbia. That interveners specially interested as are the appellants here may appeal has been decided by this Court in several cases. See *Williams* v. *Morgan*, 111 U. S. 684, 696, 698, 699; *Gest* v. *Packwood*, 14 Sawy. 146; *Re Michigan Central R. Company*, 124 F. 727, opinion by Circuit Judge Lurton, citing *Ex parte Jordan*, 94 U. S. 248; *Hamlen* v. *Toledo; etc., R. Co.*, 78 F. 664, and *Williams* v. *Morgan*, above. Compare *United States* v. *St. Louis Terminal Company*, 236

U. S. 194; *Continental Insurance Company* v. *United States*, 259 U. S. 196.

Respectfully submitted,

EDGAR WATKINS,
Attorney for American Wholesale Grocers Association et al.

Service of a copy of the foregoing statement in type was accepted and receipt of copies acknowledged and statement filed December 11, 1931, and this printed copy has also been furnished to all interested counsel.

EDGAR WATKINS,
Attorney, General Counsel for Appellants, American Wholesale Grocers Association, et al.